

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL ACTION
	:	
v.	:	NO. 00-448
	:	
WINFRED CICERO	:	

ORDER

AND NOW, this 29th day of May, 2008, upon consideration of Defendant's Motion for Reduction of Sentence (docket no. 132) and the Government's Response thereto (docket no. 134), it is **ORDERED** that the Motion is **DENIED**.¹

BY THE COURT:

/s/ **Bruce W. Kauffman**
BRUCE W. KAUFFMAN, J.

¹ Effective November 1, 2007, Amendment 706 (as amended by Amendment 711) to the United States Sentencing Guidelines modifies the Guideline range applicable to crack cocaine offenses. Pursuant to 18 U.S.C. § 3582(c)(2), the Court may reduce a sentence of imprisonment based on a Guideline range that has been lowered subsequently by the United States Sentencing Commission, provided that "such a reduction is consistent with applicable policy statements issued by the Sentencing Commission." On March 3, 2008, an amendment to the applicable policy statement embodied in U.S.S.G. § 1B1.10(c) took effect, permitting the Court to apply Amendment 706 retroactively. See United States v. Wise, 2008 U.S. App. LEXIS 3104, at *31-33 (3d Cir. Feb. 12, 2008).

In the instant Motion, Defendant seeks a reduction of his sentence pursuant to Amendment 706 and 18 U.S.C. § 3582(c)(2). However, Defendant was never charged with nor convicted of a crack cocaine offense. On August 21, 2001, he pled guilty to a four-count Indictment charging him with two counts of possession of a firearm by a convicted felon, one count of possession with intent to distribute more than 10 grams of cocaine, and one count of possession of a firearm in connection with a drug trafficking offense. Accordingly, because none of the offenses involved crack cocaine, Defendant is not entitled to a reduced sentence under Amendment 706.